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Attorneys for Defendant

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

Rodney Austin,  
Plaintiff,  
v.

Carolyn W. Colvin,  
Acting Commissioner of Social Security,<sup>1</sup>  
Defendant.

No. 12-cv-03349-EMC

**STIPULATION AND ORDER  
APPROVING SETTLEMENT OF  
ATTORNEY FEES PURSUANT TO  
THE EQUAL ACCESS TO JUSTICE  
ACT**

<sup>1</sup> Carolyn W. Colvin became the Acting Commissioner of Social Security on February 14, 2013. Pursuant to Rule 25(d) of the Federal Rules of Civil Procedure, Carolyn W. Colvin should be substituted for Michael J. Astrue as the defendant in this suit.

1  
2 The parties stipulate, through their undersigned counsel, subject to the Court's  
3 approval, to the late filing of this stipulation. The late filing is necessary due to the facts  
4 that: (1) Defendant's counsel was no longer listed as an ECF recipient and only learned  
5 of the motion recently; (2) the parties needed additional time to settle the matter.  
6

7 The parties further stipulate, through their undersigned counsel, subject to the  
8 Court's approval, that Plaintiff be awarded attorney fees under the Equal Access to  
9 Justice Act (EAJA), 28 U.S.C. § 2412(d), in the amount of FIVE THOUSAND  
10 DOLLARS (\$5,000.00). This amount represents compensation for all legal services  
11 rendered on behalf of Plaintiff by counsel in connection with this civil action, in  
12 accordance with 28 U.S.C. § 2412(d).  
13  
14

15 After the Court issues an order for EAJA fees to Plaintiff, the government will  
16 consider the matter of Plaintiff's assignment of EAJA fees to Bay Area Legal Aid.  
17 Pursuant to *Astrue v. Ratliff*, 130 S.Ct. 2521 (2010), the ability to honor the assignment  
18 will depend on whether the fees are subject to any offset allowed under the United States  
19 Department of the Treasury's Offset Program. After the order for EAJA fees is entered,  
20 the government will determine whether they are subject to any offset.  
21  
22

23 Fees shall be made payable to Plaintiff, but if the Department of the Treasury  
24 determines that Plaintiff does not owe a federal debt, then the government shall cause the  
25 payment of fees to be made directly to Bay Area Legal Aid, pursuant to the assignment  
26 executed by Plaintiff. Any payments made shall be delivered to Bay Area Legal Aid.  
27  
28

1 This stipulation constitutes a compromise settlement of Plaintiff's request for  
 2 EAJA attorney fees and expenses, and does not constitute an admission of liability on the  
 3 part of Defendant under the EAJA. Payment of the agreed amount shall constitute a  
 4 complete release from, and bar to, any and all claims that Plaintiff and/or Plaintiff's  
 5 counsel may have relating to EAJA attorney fees and expenses in connection with this  
 6 action.  
 7

8 This award is without prejudice to the rights of Plaintiff's counsel to seek Social  
 9 Security Act attorney fees under 42 U.S.C. § 406, subject to the offset provisions of the  
 10 EAJA.  
 11

12 Dated: August 27, 2013

13 /s/ Don Medearis  
 14 (As authorized via email)  
 15 DON MEDEARIS  
 16 Attorney for Plaintiff

17 MELINDA L. HAAG  
 18 United States Attorney  
 19 DONNA L. CALVERT  
 20 Acting Regional Chief Counsel, Region IX,  
 21 Social Security Administration

22 By: /s/ Armand Roth  
 23 Special Assistant United States Attorney

24 PURSUANT TO STIPULATION, IT IS SO ORDERED. Plaintiff shall be awarded  
 25 attorney fees in the amount of FIVE THOUSAND DOLLARS (\$5,000.00), as authorized  
 26 by 28 U.S.C. § 2412(d), subject to the terms of the above-referenced Stipulation.  
 27

28 Dated: 8/28/13

